

CITY OF
FREMONT
NEBRASKA PATHFINDERS

CITY COUNCIL MEETING MINUTES

January 29, 2019

REGULAR MEETING:

1. Meeting called to order. After the Pledge of Allegiance, the Mayor called the meeting of the City Council to order and stated that a copy of the open meeting law is posted continually for public inspection located near the entrance door by the agendas.
2. Roll call. Roll call showed Council Members McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns and Legband present. 8 Council Members present.
3. Mayor comments. (There will be no discussion from the Council or the public regarding comments made by the Mayor. Should anyone have questions regarding the comments, please contact the Mayor after the meeting)

Council Member Yerger raised a point of information to inquire about the appropriateness of items # 4, #24, #25, #26, #27, and #30 and have the items postponed indefinitely. Council Member Jacobus moved, seconded by Council Member Yerger to receive into the record a copy of the Municipal Code Sections 2-1110 through 2-1112. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus. Nay: Legband. Motion carried. Council Member Yerger moved, seconded by Council Member Jacobus to remove and indefinitely postpone items #4, #24, #25, #26, #27 and #30 of the agenda and refer them to back to committee and to legal counsel for a legal written opinion as to why it is not necessary to follow sections 2-110 and 2-111 of the Municipal Code. Ayes: Jacobus, Yerger, Bechtel, Ellis. Nays: McClain, Kuhns, Jensen, Legband, Getzschman. Motion not carried.

PUBLIC HEARINGS:

4. Ordinance 5490 Amendments regarding expansion of uses on non-standard lots, an amendment to Chapter 11 of the Fremont Municipal Code pertaining to zoning, subdivision and site development regulation. Mayor Getzschman opened the public hearing. Mayor Getzschman closed the public hearing after receiving comments from the public. Council Member Kuhns moved, seconded by Council Member Legband to hold first reading and introduce the Ordinance. Ayes: McClain, Ellis, Kuhns, Bechtel, Jensen, Legband. Nays: Jacobus, Yerger. Motion carried. City Clerk provided first reading of the Ordinance.
5. Resolution 2019-002 Poultry Complex Final Plat by Justin Stark on behalf of PCCW, Inc. on property generally located north of Hills Farm Road, West of Old Hwy 275, East of S. Main Street (in Inglewood) and south of Cloverly Road. Mayor Getzschman opened the public hearing. Mayor Getzschman closed the public hearing after receiving comments from the public. Council Member McClain moved, seconded by Council Member Kuhns to approve Resolution 2019-002 final plat poultry complex. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.

CONSENT AGENDA:

Moved by Council Member Jensen seconded by Council Member McClain to approve 6, 10, 13, 17, 18, 19, and 20 of the consent agenda. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.

6. Motion to approve January 9, 2019 through January 29, 2019 claims and authorize checks to be drawn on the proper accounts.

10. Authorize Mayor to sign Deed of Reconveyance, Nicola dba JAB Properties LLC, 330 N. Clarkson St.
13. Resolution 2019-010 to amend Resolution 2017-221 "Agreement for Preliminary Engineering Services" with the Union Pacific Railroad (UPRR) at the Downing Street Crossing.
17. Resolution 2019-012 Vacation of Utility easement Morningside Business Park.
18. Receive Greater Fremont Development Council (GFDC) report
19. Resolution 2019-014 to enter into a three year agreement with MSDS Online for Safety Data Sheets management program.
20. Motion to approve the Cement Worker/Asphalt/Excavate license application as presented subject to fulfillment of all licensing requirements for TR Construction.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION:

7. Dispense with and approve January 8, 2019 minutes. Council Member Yerger moved, seconded by Council Member Ellis to amend the motion in the second paragraph of the minutes to show that the items were continued to a future meeting until appropriate time for referral as amended by legal so that they could have time to provide a written report on any open public meetings violations. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Jacobus moved, seconded by Council Member McClain to approve the amended minutes. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
8. Accept resignation and make appointment to Planning Commission. Council Member McClain moved, seconded by Council Member Bechtel to approve the appointment. Ayes: McClain, Kuhns, Bechtel, Jensen, Legband. Nays: Ellis, Yerger, Jacobus. Motion carried.
9. Resolution 2019-009 to amend the professional services agreement with Olsson Associates, Inc. to include additional work for the Traffic Signal Improvements Phase II Project. Council Member Jacobus moved, seconded by Council Member McClain to approve Resolution 2019-009. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
11. Motion to approve change orders to the contract with HPI Mechanical Services, LLC for Lon D. Wright Unit #7 turbine and Generator repairs. Council Member Jacobus moved, seconded by Council Member Jensen to approve the change order. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
12. Receive Traffic Committee Report. Council Member McClain moved, seconded by Council Member Jensen to receive traffic committee report. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
14. Resolution 2019-017 authorizing city staff to execute a contract with Vessco Inc. to purchase a pre-fabricated building for fluoride addition. Council Member Jacobus moved, seconded by Council Member Kuhns to approve Resolution 2019-017. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
15. Accept resignation and make appointment to Airport Advisory Committee. Council Member Kuhns moved, seconded by Council Member Jensen accept the resignation of Ron Vlach and appoint Robert Steenbolck to fill the vacancy. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
16. Resolution 2019-016 Award Bid ADA Restroom remodel Friendship Center. Council Member Jacobus

moved, seconded by Council Member McClain to approve Resolution 2019-016. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.

UNFINISHED BUSINESS: requires individual associated action

22. Ordinance 5488 request for Voluntary Annexation of property by Bruce Coffey on behalf of Costco Wholesale / PCCW, Inc., owners of a tract of land being a part of Lot 1, East Inglewood Subdivision. Council Member Jacobus moved, seconded by Council Member Legband to amend so that the legal description is correct, and that it matches the survey information that is provided as a legal description on the Olsson & Associates boundary exhibit. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Legband moved, seconded by Council Member Jensen to hold second reading of the Ordinance as amended. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided second reading.
21. Ordinance 5489 request for Voluntary Annexation of property by Bruce Coffey on behalf of Costco Wholesale / PCCW, Inc., owners of a tract of land Southwest of the intersection of Cloverly Rd and Downing Street. Council Member Legband moved, seconded by Council Member McClain to approve second reading of the Ordinance. Ayes: Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided second reading.
23. Council Member Jacobus item - update on City Attorney factual investigation and legal analysis of unpaid earnest money/escrow and other expenses and fees resulting from purchase agreement signed by RTG Medical Inc. Council Member Jacobus moved, seconded by Council Member Legband to receive the RTG report. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
24. Ordinance 5483 Unified Development Code amendment regarding the size and distance into right-of-way of projecting signs. Council Member Kuhns moved, seconded by Council Member Legband to hold final reading. Ayes: McClain, Ellis, Kuhns, Bechtel, Jensen, Legband. Nays: Yerger, Jacobus. Motion carried. City Clerk provided final reading. Mayor Getzschman called for a final vote. Ayes: McClain, Ellis, Kuhns, Bechtel, Jensen, Legband. Nays: Yerger, Jacobus. Motion carried. Ordinance 5483 approved.
25. Ordinance 5484 Unified Development Code amendment to updated definition of required yards to clarify requirements for landscaping. Council Member McClain moved, seconded by Council Member Jacobus to continue the item to the next meeting so that the Council can learn if there have been citizen comments. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jacobus, Legband. Nays: Jensen. Motion carried.
26. Ordinance 5485 Unified Development Code amendment to clarify when more than one use is allowed, on a lot. Council Member Legband moved, seconded by Council Member Kuhns to hold final reading. Ayes: McClain, Kuhns, Bechtel, Jensen, Legband. Nays: Yerger, Jacobus, Ellis. Motion carried. City Clerk provided final reading. Mayor Getzschman called for a final vote. Ayes: McClain, Kuhns, Bechtel, Jensen, Legband. Nays: Yerger, Jacobus, Ellis. Motion carried. Ordinance 5485 approved.
27. Ordinance 5486 Unified Development Code amendment to screening requirements for service stations to type B unless abutting residential properties. Council Member Legband moved, seconded by Council Member Kuhns to hold final reading. Ayes: McClain, Kuhns, Getzschman, Jensen, Legband. Nays: Yerger, Jacobus, Ellis, Bechtel. Motion carried. City Clerk provided final reading. Mayor Getzschman called for a final vote. Ayes: McClain, Kuhns, Getzschman, Jensen, Legband. Nays: Yerger, Jacobus, Ellis, Bechtel. Motion carried. Ordinance 5486 approved.
28. Ordinance 5492 vacating Cloverly Road from the new alignment of Cloverly Road to the new alignment of Downing Street. Council Member Jacobus moved, seconded by Council Member McClain to amend the Ordinance to include the word "of" to read as right of way from the East right of way line of Cloverly

Road. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Jacobus moved, seconded by Council Member McClain to hold second reading of the Ordinance as amended. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided second reading.

29. Ordinance 5491 request for approval of 3rd amendment to the Gallery 23 PD Planned Development to change the height for commercial zoning from 45' to 60' by Brad Marshall on behalf of Jeremy Guenther, owner of land generally located at the North of County Road U and South of Lincoln Highway, just west of Farmfield Road. Council Member Jacobus moved, seconded by Council Member Jensen to hold second reading of the amended Ordinance 5491. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided second reading.
30. Resolution 2019-007 clarifying legal description referenced in purchase agreements for the sale and conveyance of real estate owned by the City of Fremont to the Dodge County Humane Society. Council Member Yerger moved, seconded by Council Member Jacobus to table the action and sale of this property be held up until it is conformed for the Council until it receives a legal written report indicating that the public record notices, agendas, minutes and committee's details for negotiated sale are reported and provided to the Council so that the Council can reaffirm or deny the sale. Ayes: Ellis, Bechtel, Yerger, Jensen, Jacobus. Nays: Legband, Kuhns, McClain. Motion carried.

NEW BUSINESS: requires individual associated action

31. Motion to approve Moller Field Site Plan. Council Member Yerger moved, seconded by Council Member Kuhns to approve the Moller Field site plan. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
32. Resolution 2019-011 amending Gas Supply Agreement with Central Plains Energy Project. Council Member Yerger moved, seconded by Council Member Jensen to approve Resolution 2019-011. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
33. Council Member Yerger item - Resolution 2019-012 regarding providing direction to the City Engineer for design of Luther Road extension south of Morningside Road. Council Member Yerger moved, seconded by Council Member Jacobus to receive e-mails from Council Member Yerger which he received relating to this item. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Jacobus moved, seconded by Council Member Legband to receive a petition titled "Luther Road Extension; (South of Morningside Road), Deerfield Subdivision Intersection Openings; and Drainage Ditch Project – Fremont Nebraska". Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Yerger moved, seconded by Council Member McClain to continue the item the first City Council Meeting in March, and receive the City Engineer's input on alternative design plans to help meet the public's criteria the best we can. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband. Nay: Kuhns. Motion carried.
34. Resolution 2019-013 granting a Utility Easement near Lon D. Wright Power Plant to Cox Nebraska Telecom. Council Member Jacobus moved, seconded by Council Member Legband to receive into the record a revised version of the license agreement. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Jacobus moved, seconded by Council Member Legband to amend the resolution to strike ingress egress utility easement and replace with license agreement. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Jacobus moved, seconded by Council Member Bechtel to approve Resolution 2019-013 as amended. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
35. Resolution 2019-015 approving the FAA Capital Improvement Plan. Council Member Kuhns moved, seconded by Council Member Yerger to approve Resolution 2019-015. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.

36. Ordinance 5493 amending sections of Chapter 2 of the Municipal Code to adopt public comment period. Council Member Jacobus moved, seconded by Council Member Yerger to strike out the verbiage "and shall commence at the hour of 6:30 p.m." under 2-103, include adding back in the word and formal instead of /formal being crossed out, open public comment periods after 2-103 to include the word and, and keep the word formal, and in the verbiage below between 203 & 109, to keep the word formal included in that paragraph body. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Yerger moved, seconded by Council Member Jacobus to hold first reading of the Ordinance as amended. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided first reading of the Ordinance.
37. Council Member Ellis item – Resolution 2018-018 requiring that City Staff work in tandem with Council Member Ellis to design an upgraded audio/video recording plan and proposal for implementation no later than February 22, 2019. Council Member Bechtel moved, seconded by Council Member Yerger to approve Resolution 2019-018. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
38. Council Member Yerger item – Resolution 2018-019 requiring that the City Attorney conduct an investigation into any potential Open Meetings violations and provide a written opinion and report prior to action being taken on various City Resolutions and Ordinances which were continued at the January 8, 2019 City Council Meeting. Council Member Jacobus moved, seconded by Council Member Yerger to approve Resolution 2019-019. Ayes: Ellis, Bechtel, Yerger, Jensen, Jacobus. Nays: McClain, Kuhns, Legband. Motion carried.
39. Council Member Yerger item – Resolution 2018-020 requiring the City Clerk to provide requested information regarding Mayoral and Council Committees, Notices/Minutes regarding various City Resolutions and Ordinances which were continued at the January 8, 2019 City Council Meeting. Council Member Jacobus moved, seconded by Council Member Yerger to approve Resolution 2019-020. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Kuhns. Nays: Legband. Motion carried.
40. Consider request to Reconsider Ordinance 5482 authorizing sale of an undivided one-half interest in Outlot A to Dodge County – Joint Public Service Center. Council Member Jacobus moved, seconded by Council Member Yerger to receive documents provided by Council Member Ellis beginning with the subject line "Joint Law Enforcement Center Discussion". Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Council Member Ellis moved, seconded by Council Member Yerger to reconsider Ordinance 5482. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.
41. Council Member Jacobus item – Resolution 2018-021 requiring that City Staff provide or give access to individual Council Members or the collective body access to documentation, information, data, financials effective upon adoption of the Resolution. Council Member Yerger moved, seconded by Council Member Ellis to approve Resolution 2019-021. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus. Nay: Legband. Motion carried.

Moved by Council Member Jacobus seconded by Council Member Ellis to adjourn the meeting. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband, Kuhns. Motion carried. Meeting adjourned at 1:22 a.m.

I, Tyler Ficken, the undersigned City Clerk, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such agenda items were sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting; that such subjects were contained in said agenda at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by the members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that this meeting was preceded by publicized notice in the Fremont Tribune and the agenda, including notice of study session, were displayed in the Municipal Building

and distributed to the Mayor and Council on January 25, 2019 and is open to the public; that all news media requesting notification concerning meeting and the subjects to be discussed at said meeting and that a current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, posted during such meeting in the room in which such meeting was held.

APPROVED AND ACCEPTED THIS 12TH DAY OF FEBRUARY AS THE OFFICIAL COPY OF THE
FREMONT, NEBRASKA CITY COUNCIL MINUTES FOR JANUARY 29, 2019.



Tyler Ficken, City Clerk



Scott Getzschman, Mayor